
IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH

UNITED STATES OF AMERICA,

Plaintiff,

v.

MARLON ALONZO SMITH,

Defendant.

**MEMORANDUM DECISION AND
ORDER DISMISSING MOTION TO
COMPEL DEFENSE COUNSEL TO
RELEASE CASE FILE**

Case No. 2:16-cr-00020-DN

District Judge David Nuffer

Defendant seeks an order compelling his trial and appellate counsel, Bel-Ami J. de Montreux, to release the case file to Defendant (“Motion”).¹ However, final judgment² has entered in this case and the Tenth Circuit Court of Appeals has affirmed Defendant’s conviction and sentence.³

“After entry of final judgment, a district court has jurisdiction only to the extent permitted by statute or rule.”⁴ And the district court’s original jurisdiction under [18 U.S.C. § 3231](#) does not confer “jurisdiction over all post-conviction motions.”⁵ Defendant cites no legal authority that would confer jurisdiction over his Motion. The Tenth Circuit Court of Appeal has also held that the district court lacks jurisdiction to address the merits of post-conviction motions to compel counsel to provide a criminal defendant with counsel’s case file.⁶ Therefore,

¹ Motion to Compel Defense Counsel to Release Case File (“Motion”), [docket no. 218](#), filed Jan. 4, 2021.

² Judgment in a Criminal Case, [docket no. 181](#), filed Oct. 2, 2018.

³ Order and Judgment, [docket no. 200](#), filed Feb. 25, 2020.

⁴ *United States v. James*, 728 Fed. App’x 818, 822 (10th Cir. 2018).

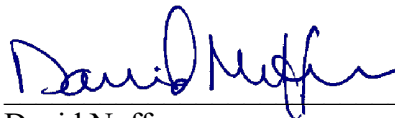
⁵ *Id.*

⁶ *Id.*; *United States v. Garcia-Herrera*, 894 F.3d 1219, 1220 (10th Cir. 2018); *United States v. Benitez*, 720 Fed. App’x 509, 510-11 (10th Cir. 2018).

IT IS HEREBY ORDERED that Defendant's Motion⁷ is DISMISSED for lack of jurisdiction.

Signed January 21, 2021.

BY THE COURT

A handwritten signature in blue ink, reading "David Nuffer", is written over a horizontal line.

David Nuffer
United States District Judge

⁷ [Docket no. 218](#), filed Jan. 4, 2021.